

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DONALD ROBERT CONKLIN, IV,
Plaintiff

v.

JOHN P. BOHRMAN,
Defendant

: No. 3:18cv1702
:
: (Judge Munley)
:
: (Magistrate Judge Mehalchick)
:
:

ORDER

AND NOW, to wit, this 19th day of November 2018, we have before us for disposition Magistrate Judge Karoline Mehalchick's report and recommendation, which proposes that plaintiff's motion to proceed *in forma pauperis* be granted, but that his complaint be dismissed without prejudice for failure to state a claim upon which relief can be granted. The magistrate judge further recommends that the plaintiff be given thirty (30) days to amend his complaint to clearly reassert his claims in accordance with Rule 8(a) and 8(d)(1) of the Federal Rules of Civil Procedure.

No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that

there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither clear error on the face of the record nor manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 11) is **ADOPTED**;
- 2) Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is **GRANTED**;
- 3) Plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**;
- 4) Plaintiff has **SIXTY DAYS (60)**¹ to amend his complaint; and
- 5) This matter is remanded to Magistrate Judge Mehalchick for further proceedings including disposition of the pending motion for appointment of counsel.

BY THE COURT


JUDGE JAMES M. MUNLEY
United States District Court

¹ Magistrate Judge Mehalchick recommends that the plaintiff be provided thirty days to file an amended complaint. However, the plaintiff has since requested additional time. (Doc. 12). As such, we will allow the plaintiff sixty days to file his amended complaint.